

## **REMARKS**

The applicant offers no substantive amendments to the claims as currently pending in this application since, in the applicant's view, said claims define an invention that is both novel and non-obvious over the prior art of record.

The Examiner has rejected claims 1, 3, 10, 13, 14, 18, 21, 22 and 25 as unpatentable under 35 U.S.C. 103(a) having regard to the combination of Hendricks et al (US6201536), Hodge et al (US6564381) and Banker et al (US5357276).

In the Examiner's view, Hendricks teaches all of the limitations of, for example, claim 1, save that it fails to specifically disclose communicating content in response to requests for the content and wherein the data streams are offset by a single value. However, the Examiner contends that Hodge discloses a video distribution system wherein a super hub controller will determine when content is to be distributed in response to requests by motion picture studios as to how and when the content is to be distributed for ensuring maximum revenue distribution from broadcast video programs. Thus, it is the Examiner's view that it would have been obvious to one skilled in the art to modify Hendricks' system to include communicating content in response to requests for the content, as taught by Hodge, for ensuring maximum revenue distribution from broadcast video programs.

The Examiner then proceeds to indicate that Banker discloses a broadcast television system for providing NVD services wherein a plurality of data streams consisting of the same program are transmitted continuously and sequentially with each data stream offset with respect to a preceding one by a single offset value. Thus, it is the Examiner's view that it would have been obvious to one skilled in the art to modify the combined system of Hendricks and Hodge system to include a single offset value for the typical benefit of providing a clear and consistent indication of the wait required for a user to start viewing the movie.

Applicant respectfully disagrees for the following reasons.

Banker is representative of prior art systems acknowledged at page 1, lines 12 to 21 of the specification as filed in which a movie is repeatedly transmitted at a repeat interval of, for example, 10 to 15 minutes. Each transmission of the movie

takes place over a separate channel. Consequently, a number of channels is required to respectively show multiple versions of the movie, each version of the movie corresponding to a respective start time. A subscriber to the NVOD service wishing to view the movie simply needs to determine a next start time convenient to the subscriber and request to view the movie shortly before the next start time. The communications system then permits the subscriber to view the movie on an appropriate channel corresponding to the next start time (see figure 9 of Banker).

Column 8, lines 8 to 19 of Hendricks, discloses that the Operations Center of Hendricks performs two primary services: (i) packaging television programs for transmission, and (ii) *generating the program control information signal*. At column 8, lines 31 to 43 it is disclosed that:

*"Once the program packages have been created, the operations center 202 generates a program control information signal that is delivered with the program packages to the cable headend 208 and/or set top terminals 220. The program control information signal contains a description of the contents of the program package, commands to be sent to the cable headend 208 and/or set top terminals 220, and other information relevant to the signal transmission. This signal may include information on program packages (e.g., channel number, program title, program length, program category, **start times**, etc.) and menu content"* (emphasis added).

The Examiner has stated in the Office Action that Hendricks teaches that the plurality of onward data streams are offset with respect to each other by an offset value, i.e. *wherein the start time of each channel is staggered so as to be offset from the preceding one*. The start times as acknowledged by the Examiner in the Advisory Action mailed June 5, 2006 are obtained from *"the program control information signal transmitted from the operations center"* and that "Hendricks specifically discloses *"wherein the programming schedule, including start times, is created by the operations center 202"* and further states that *"program start times are decided by the operations center"*. By means of the foregoing, the Examiner acknowledges that Hendricks does not disclose a single offset value. In Hendricks,

each program will have its own start time determined by the operations center which is unaffected by any process performed by the distribution server. It will also be apparent that there could be a multitude of different implicit timing offsets existing between the respective starting times of the various programs scheduled by the operations center, but there is no mechanism for the distribution server to effect any change to such offsets. Hendricks does not disclose sending a single offset value from the operations center to the headend (distribution server) in the manner claimed in the present invention. In Hendricks, there is no need to send an offset value since all programming scheduling including implicit timing offsets between scheduled programs are controlled and assigned by the operations center.

In Banker, the single offset value of 15 minutes is the time gap between transmission of one of a plurality of data streams (movies, for example) and a preceding one of said plurality of data streams.

The Examiner is of the view that it would have been obvious for one skilled in the art to apply the single offset value taught by Banker to the combined system of Hendricks and Hodge such that in the combined system each of a plurality of data streams is transmitted with respect to a preceding one by a time gap equal to the single offset value (15 minutes in Banker).

However, one skilled in the art would immediately recognize that to apply the single offset value taught by Banker to the combined system of Hendricks and Hodge such that in the combined system each of a plurality of data streams is transmitted with respect to a preceding one by a time gap equal to the single offset value would entirely compromise the function of Operations Center in generating the program control information signal in respect of program transmission start times and thus compromise one of the primary functions of the Operations Center. If a single offset value as taught by Banker were employed in the combined system of Hendricks and Hodge, then there would be no purpose in the Operations Center performing one of its primary functions of preparing a program control information signal including program start times.

For this reason alone, one skilled in the art would not seriously contemplate applying the teaching of Banker to the combined system of Hendricks and Hodge.

Furthermore, one skilled in the art would find no motivation to apply the teaching of Banker to the combined system of Hendricks and Hodge. As discussed in Hendricks at column 18, line 63 to column 19, line 6, the system of Hendricks already provides a clear and consistent indication of the wait required for a user to start viewing a movie to at least as good a degree that such is provided by Banker.

In Banker, by offsetting a movie transmission by a single offset time value of 15 minutes with respect to a preceding transmission of a movie, a user always knows that the movie will start within no more than 15 minutes of making a selection of that movie. The amount of the wait will depend on at what point during the 15 minute offset did the subscriber select the movie.

Hendricks also addresses this problem. In Hendricks, once an initial request from a subscriber for a movie is received, a timer is initiated with an expiry time of 3, 5 or 10 minutes. The system monitors for any further requests for the same movie during the timer period. During the timer period, any subscribers requesting the movie are directed to a preview channel prior to the movie commencing. Therefore, a subscriber has much the same or even better degree of certainty of how much of a wait until movie commencement than that provided by Banker in that, on requesting a movie, the subscriber will know it will start within the period of the timer (no more than 3, 5 or 10 minutes depending on the period selected for the timer). Therefore, one skilled in the art would not be motivated to look to Banker for a solution to the problem of providing a clearer and more consistent indication of the wait required for a user to start viewing a movie.

Furthermore, even if one skilled in the art did attempt to modify the combined system of Hendricks and Hodge using the teaching of Banker, it would not result in the system as claimed. A person of ordinary skill in the art would recognize that applying the single time offset value taught by Banker would compromise one of the primary functions of the Operations Center in producing program information including program start times. Therefore, the person skilled in the art would apply the 15 minute single offset value taught by Banker to the timer taught by Hendricks whereby, when an initial request for a movie is received, the timer is started for a 15 minute period to enable other subsequent requests to be received and processed. The person skilled in the art would not seriously contemplate applying the 15 minute

single offset value taught by Banker in replacement of movie start times for the aforementioned reason that this would compromise or indeed negate a primary function of the Operations Center.

Consequently, as demonstrated above with respect to at least independent claim 1 as presently pending, one skilled in the art would not be motivated to apply the teaching of Banker to the combined system of Hendricks and Hodge and, even if he/she did, it would not result in the claimed invention.

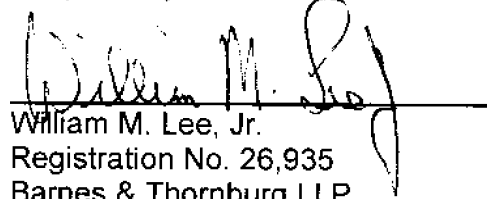
The foregoing reasoning is equally applicable to all remaining independent claims.

Remaining rejections are therefore moot in view of the foregoing.

Applicant requests favorable reconsideration of the claims as presently pending.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "William M. Lee, Jr.", is written over a horizontal line.

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